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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------|------------------|
| 10/621,704  | 07/17/2003  | Percy Greenberg      | 55404/118/101          | 1521             |
| 5909  | 7590        | 05/04/2005           | EXAMINER               |                  |
| NAWROCKI, ROONEY & SIVERTSON<br>SUITE 401, BROADWAY PLACE EAST<br>3433 BROADWAY STREET NORTHEAST<br>MINNEAPOLIS, MN 554133009 |             |                      | PARKER, FREDERICK JOHN |                  |
|   |             |                      | ART UNIT               | PAPER NUMBER     |
|   |             |                      | 1762                   |                  |

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/621,704

Applicant(s)

GREENBERG, PERCY

Examiner

Frederick J. Parker

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

#### *Claim Rejections - 35 USC § 112*

1. The amendments in response to the 35 USC 112 rejections of the Previous Office Action are acknowledged and appreciated, and the Examiner withdraws the rejections. Additional rejections under this heading are necessitated by amendment.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification neither teaches nor suggests the requirement that the colorants be “non-reactive”, nor is any page/ line support provided. To the contrary the specification exemplifies colorants to be inks (e.g. page 6, which encompasses reactive inks which intentionally react with the substrate).

#### *Claim Rejections - 35 USC § 103*

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-5,8-9,11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Priggmeyer et al in view of Toshihiro et al.

Art Unit: 1762

Priggmeyer et al and Toshihiro et al are cited for the same reasons previously discussed, which are incorporated herein. Applicants amendments and arguments have been considered.

Applicants' primary argument is that claim 1 cites "colorant" but the references "employ the use of a reactive substance" to form patina. The Examiner takes the position that even though the liquids to form patina of the prior art may be "reactive", they are nonetheless colorants which meet Applicants' limitation. They are colorants because...

(1) Applicants do NOT DEFINE colorants to exclude reactive liquids, and in fact encompass reactive inks by exemplifying ink on page 6 as a colorant. The paints and ink on pages 4 and 6, respectively, are merely examples, not definitions, and it is well-established that exemplification in a specification does not equate to definition. Thus the Examiner must use the ordinary definition of colorant as "something, esp. a dye, pigment, paint, or ink, that imparts color or modifies color" ( Webster's New University Riverside Dictionary, 1994). The prior art liquids clearly meet the ordinary definition of colorant as they ultimately provide a dye or pigment for coloration.

(2) the reactive liquids of both Priggmeyer et al and Toshihiro et al contain copper compounds which ultimately form the coloration of the patina. In Priggmeyer added copper salts are ultimately responsible whereas in Toshihiro the solution applied forms "copper rust" (sic)/ as the copper coloration. In both cases copper, which is widely known to produce vivid colorations of green, blue, etc depending on valence and compound, are responsible for the coloration of the patina on the copper matrix.

It is also clear from the references that the product formed has the appearance of patination because both are directed to forming patina.

Art Unit: 1762

Applicants arguments regarding application on page 7 are moot in view of the supporting evidence provided that the liquids of both references are colorants.

The Examiner finds the arguments non-persuasive, and he maintains the rejections.

6. Claims 6,7,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Priggmeyer et al in view of Toshihiro et al and further in view of Hoffman.

Priggmeyer et al, Hoffman, and Toshihiro et al are cited for the same reasons previously discussed, which are incorporated herein. Applicants amendments and arguments have been considered.

Applicants argue Hoffman teaches a first non-continuous scanty coat followed by additional coating. The point is Hoffman teaches the spotty, discontinuous scanty coat which provides optical effects. Thus a method of forming a discontinuous multi-toned coat is taught for paint (which can be non-reactive), the use of colored paint instead of the patination solutions of Priggmeyer et al and Toshihiro et al would have been obvious to produce similar patina-like effects. The Examiner finds the arguments non-persuasive, and he maintains the rejections.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

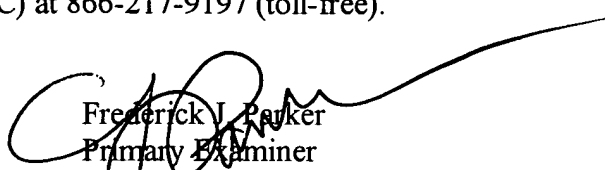
Art Unit: 1762

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick J. Parker whose telephone number is 571/ 272-1426. The examiner can normally be reached on Mon-Thur. 6:15am -3:45pm, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571/272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Frederick J. Parker  
Primary Examiner  
Art Unit 1762

fjp